

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

United States of America,)
)
Plaintiff,) **ORDER SETTING TRIAL, HEARING**
) **DATE, AND MOTION DEADLINES**
vs.)
) Criminal No. 3:12-cr-119
Charles William Carlton and John Robert)
Polinski,)
)
Defendants.)

Counsel for the United States and the above-named defendants appeared before the Court for a status conference on May 1, 2013, which was held primarily to consider scheduling matters in this case. Trial for Charles William Carlton has previously been continued to a date to be determined (Doc. #84), while trial for John Robert Polinski remained scheduled to begin on July 23, 2013. At the status conference, the Court noted to all parties that the defense has been engaged in coordination of experts in this matter, and that these efforts will require more time to be completed. The prosecution in this case involves complex theories involving analogue chemicals, which will require expert review for both parties. Though much coordination with experts remains, all parties agreed that it would be beneficial to set firm dates and deadlines to help the case proceed. After considering all of the input of the parties, the Court concludes that trial of this complex prosecution is unrealistic for Polinski's current scheduled date of July 23, 2013. Further, given the necessity of expert review in this matter, a significant continuance is needed for all parties to be fully prepared for trial and to resolve pretrial motions that may be filed.

A court may exclude periods of time from consideration under the Speedy Trial Act if it determines that the ends of justice outweigh the best interests of the public and defendant in having

a speedy trial. United States v. Stackhouse, 183 F.3d 900, 901 (8th Cir. 1999); 18 U.S.C. § 3161(h). An ends-of-justice continuance may be justified on the grounds of complexity due to the nature of the prosecution. 18 U.S.C. § 3161(h)(7)(B)(ii). The Court finds that a continuance is necessary for the parties to prepare for this complex trial. Carlton has recently filed a speedy trial waiver (Doc. #85), and the Court requests that Polinski do the same as soon as is practicable.

The Court hereby continues the trial to February 18, 2014, in Fargo, North Dakota. The pretrial conference will begin at 9:00 a.m. and jury selection will occur at 9:30 a.m. The pretrial motion deadline is continued to December 6, 2013. In recognition of the holiday season, any replies to responses to motions filed on or near the motion deadline date will not be due until January 7, 2014. **IT IS ORDERED** that the period of delay commencing from the date of this Order until the date of the trial shall be excluded from the calculation of time for purposes of the Speedy Trial Act, 18 U.S.C. § 3161.

IT IS FURTHER ORDERED that on January 16, 2014 at 9:00 a.m., the Court will hold a hearing on all pending motions.

IT IS SO ORDERED.

Dated this 1st day of May, 2013.

/s/ Ralph R. Erickson
Ralph R. Erickson, District Judge
United States District Court